

III. Remarks

Responsive to the outstanding Examiner's Action, the applicant has carefully studied the Examiner's comments. Favorable reconsideration of this application is respectfully requested in light of the following detailed discussion.

Claims 12-30 are pending in the application. Claims 27-30 have been withdrawn from consideration. Claims 12-26 are rejected. Claims 31-33 are new. Claim 12 has been amended. Claims 15, 17-18, 21 and 26 are requested to be cancelled herewith. A listing of the pending claims, along with a status indicator of each claim, appears above.

Guidelines for the preferred layout of the specification were provided on page 2 of the Office Action. No information was provided as to why the guidelines were provided. Applicant notes that the relevant headings were added to the application in a Second Preliminary Amendment filed on October 24, 2007. Applicant respectfully requests clarification if these have been entered and if any additional headings should be added or the arrangement of the specification should be otherwise amended.

Claims 12-23 were rejected under 35 USC 103(a) as being unpatentable over Kaneko et al (U.S. 6,383,678) in view of lino et al (U.S. 2007/0178349 A1).

The Kaneko et al reference was previously overcome. Applicant submits herewith a Declaration under 37 CFR 1.131 demonstrating conception of the invention defined by claim 12 prior to lino et al's effective U.S. date of January 9, 2004, coupled with diligence from prior to this date to the filing of the German priority application. It is respectfully submitted that the Declaration removes lino et al as a reference. As previously agreed with the Examiner, the Kaneko et al reference itself does not teach or

suggest all of the limitations of independent claim 12. Therefore, it is respectfully submitted that a case of obviousness or anticipation has not been established and that the claims are patentable.

On page 5, paragraph 7, a rejection of claims 12-13 under 35 USC 103(a) as being unpatentable over Kaneko et al "in view of Fronk et al (U.S. 6,372,376)" is provided. However, in the explanation of this rejection on page 5, the Office Action relies on and cites passages of the lino et al reference, not Kaneko et al. Then in the last lines of explanation on page 5, lino and Keneko are mentioned.

The above rejection does not appear to comply with at least 37 CFR 1.104(c)(2). To the extent that the rejection can be understood, it appears that it is based on lino et al. As provided above, this reference has been sworn behind and thus it may no longer be utilized to reject claim 12.

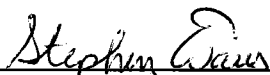
In light of the above discussion, claim 12 of the present invention is patentable. Furthermore, claims 13-14, 16, 19-20, 22-25 and 31-33 each depend on claim 12, either directly or indirectly, and contain all of the limitations thereof. Therefore, because claim 12 is patentable and claims 13-14, 16, 19-20, 22-25 and 31-33 each depend on claim 12, claims 13-14, 16, 19-20, 22-25 and 31-33 are patentable over the cited reference.

The fee for a three month extension of time and the fee for 2 dependent claims beyond 20 are being submitted herewith. No additional fees are believed due with this response. In the event that fees are due, please charge them to Deposit Account No. 13-1816. Kindly credit any overpayment to the same account. In either case, please associate D030001-17860001 with any credit or debit of the Deposit Account.

In light of the remarks above, it is believed the claims are now in condition for allowance and an early Notice of Allowance is respectfully requested.

Should the Examiner wish to modify any of the language of the claims, applicant's attorney suggests a telephone interview in order to expedite the prosecution of the application.

Respectfully submitted,



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